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October 3, 1997

BY HAND DELIVERY

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Washington, D.C. 20554

DOCKET FILE COPY ORIGINAL

Re: *Ex Parte* Presentation
ET Docket No. 95-183, RM-8553, PP Docket No. 93-253

Dear Mr. Caton:

Representatives of WAVTrace, Advanced Radio Telecom Corp. ("ART") and WinStar Communications Inc. ("WinStar") met today with Jackie Chorney, Senior Legal Advisor and Special Assistant to the Chairman. The scope of the meeting was limited to a discussion of the proposed amendment of the Federal Communications Commission's Rules related to the licensing of spectrum in the 38.6-40.0 GHz ("39 GHz") frequency band, as contained in the Notice of Proposed Rule Making in ET Docket No. 95-183, RM-8553, PP Docket No. 93-253 (released December 15, 1995).

WinStar described its current 39 GHz system, including a description of the equipment it uses under the current rules. Representatives of WAVTrace briefly presented some information describing the technical design and performance characteristics of its point-to-multipoint system designed for use in the 39 GHz band. WAVTrace, ART and WinStar discussed their positions on the proposed rules under consideration in the pending 39 GHz rulemaking. Specifically, they urged relaxation of the Category A antenna requirement and permitting point-to-multipoint use of the spectrum. The rulemaking positions advocated are summarized in the materials attached hereto, which were left with Ms. Chorney and are submitted for inclusion in the record.

In accordance with Rule 1.1206(b), the original and six copies (two for each Docket or Rulemaking number) of this disclosure have been submitted this 3rd day

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of October to the Office of the Secretary. Questions regarding this matter should be directed to the undersigned.

Sincerely,

Lee J. Tiedrich
Jennifer A. Johnson

Counsel for WAVTrace

/s/ W. Theodore Pierson, Jr.
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Counsel for WinStar Communications, Inc.

Attachments

cc: Jackie Chorney, Esq.


WAVTRACE
Formerly "American Wireless"

Summary

- Modular, scalable
  - supports wide range of capacities
  - evolve to "cellular fabric"
  - grow with demand
- Fast, simple installation
  - fast time to commission
  - low deployment and life cycle costs
- Supports heterogeneous services
- High spectral efficiency
- Strong foundation architecture
  - more links, higher data rates

PTM Supports Public Interest

- Affordable Services
  - PTP radios address less than 10% of potential market for short-range, high quality, *high-capacity* radio links.
  - PTM systems use cellular-like designs to address the small and medium-sized businesses that make up the rest of the market.
- Increased Local Access Competition
  - High costs of fiber installation and wired upgrades have promoted little competition among wired operators, particularly for the small to medium-sized business customer.
  - PTM offers high-capacity, heterogeneous services for customers and low capital outlays for the service provider.

Recommendations

- Neither specify nor restrict:
  - airlink protocols
  - modulation
  - spectral efficiency
  - antenna category, i.e., do not require Standard A antennas
    - PTM technology relies on wide beam widths, including hub-to-hub communications.
- Permit competition to distill trade-offs in cost-effectiveness
- Coordinate precise locations of all transmitters and receivers
  - mitigate interference by allowing 38 GHz licensees to exchange frequencies through streamlined assignment procedures and allow for transmission capacity leasing arrangements

WINSTAR POSITION ON POINT-TO-MULTIPOINT EQUIPMENT

- WinStar Communications, Inc. is a national local communications company providing broadband communications using its 38 GHz Wireless Fiber[SM] services. WinStar has authority to provide CLEC service in 28 markets, and CAP service in 37 markets. WinStar currently provides switched wireless telephone service in Boston, Los Angeles, New York, Newark, Dallas, Washington, D.C., San Diego, and Chicago. By year 2000, WinStar expects to be providing switched wireless telephone service in over 40 markets.

- Within each city, WinStar will (1) identify target buildings and hub sites, (2) sell to customers in target buildings, (3) connect customers over resold lines, (4) install a Lucent 5ESS switch, (5) build hub sites, and (6) then replace resold lines with Wireless Fiber[SM] connections directly to hub sites which are connected to the switch.

- A key part of WinStar's strategy is to establish hub sites that have line of sight to the target buildings. These hub sites each aggregate telecommunications traffic from dozens of buildings and deliver the traffic to WinStar's local switch in each market. Nationwide, WinStar has targeted 49 initial hubs in its first ten cities. Ten sites have already been constructed, and all 49 hubs are scheduled for completion by the end of the year.

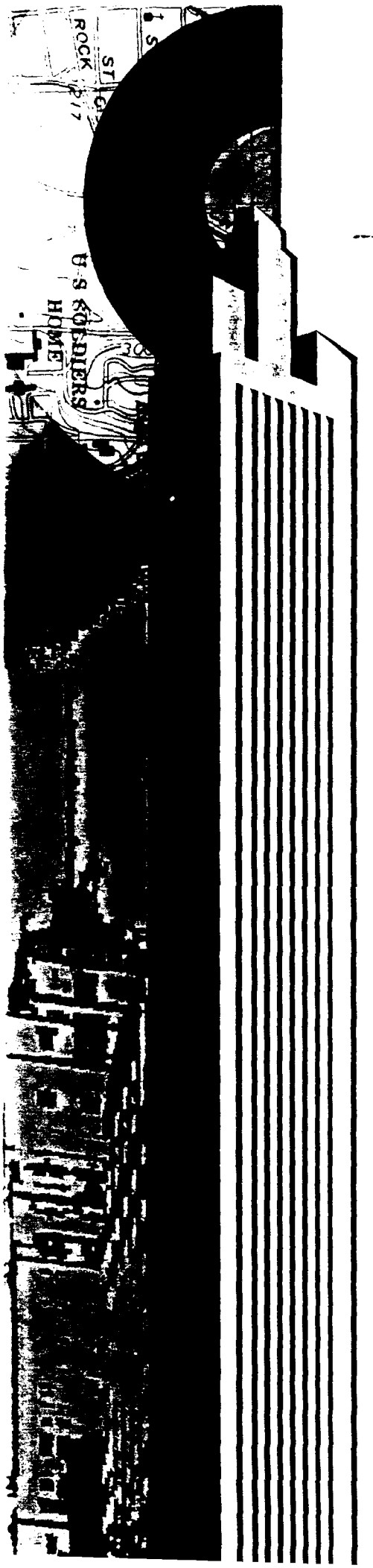
- Because multipoint 38 GHz equipment is not yet available on a commercial scale, WinStar presently employs a multiple point-to-point technology at each of its hub sites using a cage-like structure that holds multiple antennas. Each antenna is individually directed at a particular target building. As more customers are added to the network, more point-to-point antennas are added to cage.

- WinStar is working with equipment vendors to develop second generation 38 GHz antennas that offer a more elegant multiple access solution. As a result, future WinStar hub sites will not require a cage, and will deploy sophisticated, less obtrusive, phased array, flat antennas. Similar technology is also being developed in the DEMS band.

- The provision of point-to-multipoint service by wireless CLECs like WinStar can only serve to further the development of competition in the local telephone market.

- The long-awaited 38 GHz Order provides the appropriate vehicle for the FCC to clarify that the operation of point-to-multipoint equipment in the 38 GHz band is permitted.

View of a Washington, D.C. Hub Site (1850 M Street, N.W.) from a building (1146 19th Street, N.W.) Receiving WinStar Service



Does WinStar Limit Our Choice of Telecommunications Providers?

• NO

WinStar increases your tenants' choice of communications by providing "access" facilities for telecommunications carriers who are trying to service your tenants without having to lay fiber optic cables.

Is WinStar Asking Owners to Purchase a Product For Themselves or for the Building?

• NO

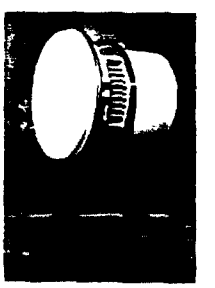
WinStar provides the tenant amenities as outlined in the enclosed materials at no cost to the building owner.

Will the Aesthetics of the Building Be Maintained?

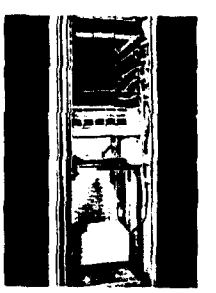
• YES

WinStar installs a small, unobtrusive (12" diameter) millimeter wave dish(es) on the building rooftop (often invisible from the street) and connects the unit to an indoor unit mounted inside a 22-inch telecommunications equipment cabinet in an existing closet or mechanical space via a single coaxial cable.

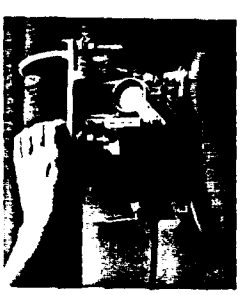
The installation is quick and simple, and requires no underground construction or right-of-way acquisition. It is equivalent to high capacity fiber links, without digging up streets or sidewalks.



12-Inch Antenna with Indoor Unit (IDU)



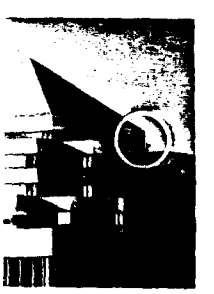
Telecommunications Equipment Cabinet



Simple Installation

No Underground Construction

View from the Street (Distant)



View from the Street (Close-up)

WINSTAR

Rulemaking Proceedings Affecting the 38 GHz Frequency Band

Presented to the Wireless Telecommunications Bureau

on

September 22, 1997

by

W. Theodore Pierson, Jr., Consultant and Co-Founder

Advanced Radio Telecom Corp.

Multiple Point-to-Point Operations at 38 GHz

- Alter FCC Part 101 Rules and policies to accommodate Multiple Point-to-Point operations at 38 GHz
    - Contemplated by Band Plan and U.S. position in favor of "high density" uses for millimetric wave frequencies

Multiple Point-to-Point Operations at 38 GHz (continued)

- Necessary for achievement of potential for 38 GHz
    - Halving of costs for new subscribers
    - Quicker deployment
- New opportunities for equipment manufacturers
    - Maintain U.S. lead in millimetric frequency equipment development

Multiple Point-to-Point Operations at 38 GHz (continued)

- Necessary for comparative parity with other local loop services and providers
    - LMDS
    - DEMS

Multiple Point-to-Point Operations at 38 GHz (continued)

- Methods for Commission adoption
  - Announce and adopt in 38 GHz Order that Multiple Point-to-Point operations are desirable and will be permitted at 38 GHz
  - Commence an expedited Rulemaking proceeding to adopt specific rules
    - ART and Wave Trace will propose specific rules

Buildout and Operating Benchmarks

- No requirements for either initial construction or continuing operations
    - ART's experience has shown both to be unnecessary and too constraining
    - Value of spectrum and return on sunk investment ensure no warehousing
    - Demand too variable geographically and too unknown to require formalistic requirements

Buildout and Operating Benchmarks
(continued)

- No more reason to require than for auctions (not proposed to be required)
    - Leading 38 GHz licensees have spent substantial sums on acquisitions and buildout to date
        - Sufficient sunk investment results in high motivation to construct as quickly as possible

Buildout and Operating Benchmarks
(continued)

- Existing operating requirements are ambiguous and unrelated to actual operations
- FCC has demonstrated that it does not have the resources or motivation to enforce its Rules
    - Imposition of prohibitions promotes disrespect and discriminates against public companies and others that choose to abide by the letter of the Rules

Spectrum Caps

- No need to place any limits on 38 GHz holdings
  - Market properly defined includes all local loop service providers (wired and wireless)
  - Sufficient competition exists, with majority of competitors possessing much greater capacity
    - LECs
    - LMDS
    - DEMS
    - New above 40 GHz spectrum

Technical Rules

- None except for Effective Isotropic Radiated Power (EIRP)
    - Consistent with FCC approach elsewhere
    - Industry has sufficient incentive to avoid interference
- Leave frequency coordination to the industry under National Spectrum Management Association (NSMA) guidelines
    - Commission's role should be only as last-ditch arbiter